HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
P.O. Box 2910, Austin, Texas 78768-2910
(512) 463-0752 • http://www.hro.house.state.tx.us

HOUSE RESEARCH ORGANIZATION

daily floor report

Monday, May 18, 2015
84th Legislature, Number 72
The House convenes at 1 p.m.

Four bills are on the daily calendar for second-reading consideration today:

Alma Allen
Chairman
84(R) - 72

SUBJECT: Grants to support mental health programs for veterans and their families

COMMITTEE: Defense and Veterans' Affairs — favorable, without amendment

VOTE: 6 ayes — S. King, Frank, Aycock, Blanco, Farias, Schaefer

1 nay — Shaheen

SENATE VOTE: On final passage, April 9 — 31-0

WITNESSES: (*On House companion bill, HB 1429*)
For — Bill Kelly, Mental Health America of Greater Houston; Kate Murphy, Texas Public Policy Foundation; (*Registered, but did not testify*: Jim Allison, County Judges and Commissioners Association of Texas; Jim Brennan, Texas Coalition of Veterans Organizations; John Dahill, Texas Conference of Urban Counties; Cate Graziani, Mental Health America of Texas; Conrad John, Travis County Commissioners Court; Lee Johnson, Texas Council of Community Centers; Lashondra Jones, Texas Criminal Justice Coalition; Katharine Ligon, Center for Public Policy Priorities; Mark Mendez, Tarrant County Commissioners Court; Seth Mitchell, Bexar County Commissioners Court; Charles Reed, Dallas County; Josette Saxton, Texans Care for Children; Casey Smith, United Ways of Texas; Stacy Wilson, Texas Hospital Association; Eric Woomer, Federation of Texas Psychiatry)

Against — (*Registered, but did not testify*: Chris Jaramillo)

On — Trina Ita, Department of State Health Services; Andy Keller, Meadows Mental Health Policy Institute; (*Registered, but did not testify*: Sonja Gaines, Health and Human Service Commission)

DIGEST: SB 55 would require the Health and Human Services Commission (HHSC) to create a grant program, subject to available appropriations for that purpose, to support community mental health programs and services for veterans with mental illness. HHSC would contract with a private entity to support and administer the grant program so that:

- HHSC and the private entity each provided half of the money to be awarded in grants;
- the private entity developed eligibility criteria for grant applicants, acceptable uses of grant money by grant recipients, and reporting requirements for grant recipients; and
- the private entity obtained HHSC's approval of the eligibility criteria, acceptable uses, and reporting requirements before awarding any grants.

The executive commissioner of HHSC would have to adopt any rules necessary to implement the grant program.

This bill would take effect September 1, 2015.

SUPPORTERS SAY:

SB 55 would help create robust mental health services for veterans and their families. The bill would create a holistic approach for helping veterans and could help provide mental health services that currently are not offered or that need to be expanded.

The bill would lead to public-private partnerships and maximize public dollars by requiring a 100 percent funding match from each private entity. This could result in further cost savings for the state because it would focus on reducing acuity and preventing future hospitalizations and the use of expensive crisis services.

SB 55 would enhance existing mental health programs for veterans by supporting community-based efforts. While there are other grant programs for veterans, the program under the bill would help pull communities together through public-private partnerships to organize mental health services. This is important because mental health care is an issue that local communities can address better than the state. Currently, services for veterans are fragmented and do not address all the needs of veterans and their families. The bill would seek to take a comprehensive, community-based approach to addressing the needs of Texas veterans and welcoming them home.

OPPONENTS SAY:

SB 55 could result in a costly duplication of services. Instead of using millions of dollars to create more grant programs, Texas should focus on

strengthening and promoting existing programs.

NOTES:

The House companion bill, HB 1429 by S. King, was considered in a public hearing of the Committee on Defense and Veterans' Affairs on March 18 and left pending.

The Legislative Budget Board estimates SB 55 would have a negative net impact of $20 million to general revenue through fiscal 2016-17. Both the House and Senate versions of the proposed fiscal 2016-17 general appropriations act contain $20 million in Art. 2 to fund the mental health for veterans grant program.

SUBJECT: Medical use of low-THC cannabis for patients with epilepsy

COMMITTEE: Public Health — favorable, without amendment

VOTE: 7 ayes — Naishtat, Blanco, Guerra, R. Miller, Sheffield, Zedler, Zerwas

1 nay — Crownover

3 absent — Coleman, Collier, S. Davis

SENATE VOTE: On final passage, May 7 — 26 – 5 (Birdwell, Creighton, Fraser, Hancock, V. Taylor)

WITNESSES: (*On House companion bill, CSHB 892*)
For —Leslie Moccia, CAFE Texas; Paige Figi, Coalition for Access Now and Realm of Caring; Dennis Borel, Coalition of Texans with Disabilities; and seven individuals; (*Registered, but did not testify*: Heiwa Salovitz, Adapt of Texas; Chuck Sparks, Victoria Ammann, Mary Lou Garcia, Lauren Wallace, Stephanie Fokas, Kevin Clark, Katie Graham, and Joanne Yurich, CAFE TX; Nancy Williams, City of Austin; Tanya Lavelle, Easter Seals Central Texas; Sindi Rosales and Shannon Robbins, Epilepsy Foundation Texas; Phillip Martin, Progress Texas; Gwendolyn Gholson and Joseph Ptak, Texans Smart on Crime; Patrick Moran, Texas Cannabis Industry Association; Andrew Cates, Texas Nurses Association; Jesse Romero, William C. Velasquez Institute; and 37 individuals)

Against — Richard Garcia, North Texas Crime Commission; Buddy Mills, William Travis, and AJ Louderback, Sheriffs' Association of Texas; Arthur Mayer; Christina Talley; Angus Wilfong; (*Registered, but did not testify*: Scott Peters, Dallas County Schools; Jeff Pender, DFW NORML; Paul Huang, Belinda Ramsey, and Christina Yampanis, North Texas Crime Commission; Curtis Howard, Plano Police Dept.; Murray Agnew, R Glenn Smith, Dennis D. Wilson, and Micah Harmon, Sheriffs Association of Texas; and 14 individuals)

On — Chris Ellis, Beacon Information Designs, LLC; Kathleen Gray, Patient Aliance For Cannabis Therapeutics; Stephanie Williams, Texas

Coalition of Compassionate Care; Sara Austin, Texas Medical Association; Dean Bortell; Timothy Dashner; Frank Dorval; (*Registered, but did not testify*: Caroline Turner, Denton NORML; Leah Jones, DFW NORML; Vincent Lopez, Patient Alliance for Cannabis Therapeutics; Belinda Williams, Texas Coalition for Compassionate Care; Mari Robinson, Texas Medical Board; and 22 individuals)

BACKGROUND:

Health and Safety Code, ch. 481.121 makes it a crime to knowingly or intentionally possess a usable quantity of marijuana. Offenses are punished according to the amount of marijuana possessed and range from a class B misdemeanor (up to 180 days in jail and/or a maximum fine of $2,000) for possession of up to two ounces to a felony punished with life in prison or a sentence of five to 99 years and an optional fine of up to $10,000 if the amount possessed was more than 2,000 pounds.

Health and Safety Code, ch. 481.002(26), defines marijuana to mean the plant Cannabis sativa L., whether growing or not, the seeds of that plant, and every compound, manufacture, salt, derivative, mixture, or preparation of that plant or its seeds.

Cannabidiol (CBD) is a type of chemical compound that is found in cannabis, according to the drug manufacturer GWPharma.

The U.S. Food and Drug Administration has not approved a marketing application for a drug product containing or derived from botanical marijuana.

DIGEST:

SB 339 would create the Texas Compassionate Use Act, under which the Department of Public Safety (DPS) would be required to license dispensers of low-THC cannabis to certain patients with intractable epilepsy and to establish and maintain a secure, online compassionate-use registry that would contain:

- the name of each physician who registered as a prescriber of low-THC cannabis for a patient;
- the name and date of birth of the patient;
- the dosage prescribed;
- the means of administration ordered, which could not include

smoking;

- the total amount of low-THC cannabis required to fill the patient's prescription; and
- a record of each amount of low-THC cannabis dispensed by a dispensing organization to a patient under a prescription.

Under the bill, "low-THC cannabis" would mean the plant Cannabis sativa L. and any part of that plant or any compound, manufacture, salt, derivative, mixture, preparation, resin or oil of that plant that contained up to 0.5 percent by weight of tetrahydrocannabinols (THC) and at least 10 percent by weight of cannabidiol.

Registry. DPS would ensure that the registry was designed to prevent more than one qualified physician from registering as the prescriber for a single patient and that the registry was accessible to law enforcement agencies and dispensing organizations. The department also would ensure that the registry allowed a physician who was qualified to prescribe low-THC cannabis to input safety and efficacy data regarding treatment of patients using the prescription.

Prescribing physicians. A physician would be qualified to prescribe low-THC cannabis to a patient with intractable epilepsy if the physician dedicated a significant portion of clinical practice to the evaluation and treatment of epilepsy and held certain board certifications in epilepsy, neurology, neurology with special qualification in child neurology, or neurophysiology. A physician could prescribe low-THC cannabis to alleviate a patient's seizures if:

- the patient was a permanent resident of Texas;
- the physician complied with registration requirements under SB 339;
- the physician certified to DPS that the patient was diagnosed with intractable epilepsy;
- the physician determined the risk of the medical use of low-THC cannabis by the patient to be reasonable in light of the potential benefit for the patient;
- a second physician qualified to prescribe low-THC cannabis had

concurred with the first physician's determination and the second physician's concurrence was recorded in the patient's medical record;

- the physician was registered as the prescriber for the patient in the compassionate-use registry maintained by DPS; and
- the physician maintained a patient treatment plan containing certain information specified in the bill.

Dispensing organizations. SB 339 would require an organization that cultivated, processed, or dispensed low-THC cannabis (dispensing organization) to have a license and would set eligibility requirements for obtaining it. A license would be valid for two years from the date of issue or renewal. DPS would issue or renew a license to operate a dispensing organization if the organization met certain eligibility requirements and if issuing the license was necessary to ensure reasonable statewide access to and availability of low-THC cannabis for patients registered in the compassionate-use registry and for whom low-THC cannabis was prescribed.

A person applying for a new or renewed license would be required to provide DPS with their name and the name of each of the organization's directors, managers, and employees, upon whom the department would conduct fingerprinting and a background check. If a licensed dispensing organization hired a new manager or employee, the organization would have to provide DPS with the name of the prospective manager or employee. The organization could not transfer its license to another person before the prospective applicant and the applicant's directors, managers, and employees provided fingerprints and passed a background check.

If DPS denied the issuance or renewal of a license, the organization that applied would be entitled to a hearing. The department would give written notice of the grounds of denial within 30 days before the date of the hearing. The department could suspend or revoke an issued license at any time if it determined that the licensee had not met the eligibility requirements for the license or had failed to comply with the provisions of the bill.

After suspending or revoking a license, the director of DPS could seize or

place under seal all low-THC cannabis and drug paraphernalia owned or possessed by the dispensing organization. The seized items could not be disposed of until the time for an organization to administratively appeal the order had elapsed or until all appeals had ended. When a revocation order became final, all low-THC cannabis and drug paraphernalia could be forfeited to the state.

SB 339 would require an organization that dispensed low-THC cannabis to record in the compassionate-use registry the form and quantity of the low-THC cannabis dispensed and when it was dispensed. An organization also would be required to verify the validity of a person's prescription before dispensing the drug. The organization would verify that the prescription:

- was for a person listed as a patient in the compassionate-use registry;
- matched the entry in the compassionate-use registry relating to the total amount of cannabis required to fill the prescription; and
- had not previously been filled by a dispensing organization as indicated by an entry in the compassionate-use registry.

Exceptions to current laws. The bill would prohibit a municipality, county, or other political subdivision from enacting, adopting, or enforcing any type of regulation that would prohibit the cultivation, production, dispensing, or possession of low-THC cannabis, as authorized by SB 339.

SB 339 would exempt a person who engaged in the acquisition, possession, production, cultivation, delivery, or disposal of a raw material used in or by-product created by the production or cultivation of low-THC cannabis from certain marijuana offenses if the person:

- was a patient or the legal guardian of a patient for whom low-THC cannabis was prescribed and the person had a valid prescription from a dispensing organization; or
- was a director, manager, or employee of a dispensing organization and the person solely acquired, possessed, produced, cultivated,

dispensed, or disposed of low-THC cannabis, raw materials, or related drug paraphernalia as part of the person's regular duties at the organization.

The bill also would allow a dispensing organization licensed under the provisions of SB 339 to possess low-THC cannabis as a controlled substance without registering with the director of DPS. The Texas Pharmacy Act also would not apply to dispensing organizations.

Rules and effective date. The public safety director would adopt rules by December 1, 2015, to implement, administer, and enforce the provisions of SB 339, including rules to establish the compassionate-use registry. By September 1, 2017, DPS would license at least three dispensing organizations in accordance with the bill, provided at least three applicants met the requirements for approval.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY:

SB 339 would provide an effective, compassionate-use option for people with intractable epilepsy, including children, for whom other treatments have not controlled their seizures. These people are at high risk of death or brain damage due to repeated seizure and do not have time to wait for the Food and Drug Administration (FDA) trial process to complete before having the option to try this drug. The drug has undergone some testing for side effects, even if it has not gone through FDA trials. Its "orphan drug" designation does not guarantee that a trial will move quickly, and the FDA may not ever approve botanical forms of low-THC cannabis that could treat epilepsy in children.

SB 339 is not a recreational marijuana or broad medical marijuana bill; it is narrowly drafted to give people with epilepsy another tool where others have failed. It would apply only to low-THC cannabis, a form that has a low propensity for abuse and no street value on the black market. The bill limits THC in the treatment to 0.5 percent, which is not enough to produce a euphoric effect. Low-THC cannabis must contain at least 10 percent cannabidiol, a substance in cannabis that has therapeutic properties but

does not lead to intoxication. The low-THC cannabis for medical use could not be smoked, and the bill would establish a compassionate-use registry, both of which would lower the potential for abuse.

FDA-approved drugs that parents can obtain to stop children's seizures are stronger than low-THC cannabis, with a higher street value. No FDA-approved drugs are approved for Dravet Syndrome, a dangerous form of epilepsy that manifests in very young children. The bill would provide these children with another option.

Only patients who were Texas residents with intractable epilepsy could receive a prescription for low-THC cannabis. A physician would weigh the risks and benefits under strong regulations, and only those who were board-certified in epilepsy or certain disciplines within neurology could prescribe the treatment. A second physician would have to concur with the decision. Prescribing physicians would have to register with the Department of Public Safety (DPS) and would have to detail the treatment plan and dosage for their patients. Dispensers also would have to be registered and licensed through DPS, which could seize the treatment and drug paraphernalia if a dispensing organization's license were revoked.

Other states have legalized this treatment, and Texas families who wish to legally obtain low-THC cannabis to treat their child's epilepsy sometimes must move to another state.

FDA-approved treatments can have worse side effects than low-THC cannabis, such as rashes, respiratory depression, risk of fatal liver failure, kidney stones, or pneumonia. Patients who have used low-THC cannabis have not reported these side effects. Sleepiness is the most common side effect for this treatment, even in combination with other drugs.

In general, anti-epileptic drugs, including those approved by the FDA, work by affecting the brain. Concerns about the effect of low-THC cannabis on a child's brain also could be applied to FDA-approved anti-epileptic drugs because many of them were not clinically tested for use with children, but for adults. Many FDA-approved anti-epileptic drugs also have value on the black market. This alone is not a reason to reject an effective treatment.

OPPONENTS SAY:

SB 339 runs the risk of causing harm by allowing patients to use a treatment that has not yet been approved by the Food and Drug Administration (FDA). Children's brains are still developing and could be harmed by using a treatment that has not been proven to be safe and effective.

Patients wishing to use low-THC cannabis should wait for this treatment to be fully tested because the side effects for this treatment are relatively unknown. Low-THC cannabis has been designated as an "orphan drug" by the FDA, which means that the trial process is likely to move quickly for this treatment.

SB 339 also could create the opportunity for other children, such as those in the same household, who were not prescribed the treatment to use low-THC cannabis if they were not properly supervised. While the treatment would be low-THC, it would not be free of THC and could still be sold on the black market.

SB 339 also would not provide adequate regulation for the sale of low-THC cannabis. The bill could lead to children being accidentally given a high-THC product if dispensers were not properly regulated.

The fact that other states have enacted similar legislation is not a reason for Texas to move forward and do the same.

NOTES:

The House companion bill, CSHB 892 by Klick, was placed for second-reading consideration on the May 13 General State Calendar but was not considered.

SUBJECT: Maintaining queues on health program waiting lists for military members

COMMITTEE: Defense and Veterans' Affairs — committee substitute recommended

VOTE: 7 ayes — S. King, Frank, Aycock, Blanco, Farias, Schaefer, Shaheen

0 nays

SENATE VOTE: On final passage, March 30 — 30 - 0

WITNESSES: (*On House companion bill, HB 765*)
For — Renee Hopper O'Carolan; Linda Litzinger; Kimberly Salazar; (*Registered, but did not testify*: Jim Brennan and Morgan Little, Texas Coalition of Veterans Organizations; Lee Johnson, Texas Council of Community Centers; Venecia Rachel, Texas Advocates; Lauren Rose, Texans Care for Children; Eric Woomer, Federation of Texas Psychiatry)

Against — None

On —Trina Ita, Department of State Health Services; Gary Jessee, Health and Human Services Commission; Dale Vande Hey, Department of Defense; (*Registered, but did not testify*: Elisa Garza, Texas Department of Aging and Disability Services; Laura York, Department of Assistive and Rehabilitative Services)

BACKGROUND: Under Government Code, sec. 531.093, each health and human services agency is required to adopt policies and procedures to:

- identify service members who are seeking services from the agency during the intake and eligibility determination process; and
- direct service members seeking services to the appropriate service providers.

DIGEST: CSSB 169 would require the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules requiring the commission or another health and human services agency to maintain the place of a person subject to the bill in the queue of an interest list or other

waiting list if he or she could not receive benefits under an assistance program because the person temporarily resided out of state due to military service. The rules would hold the person's place on a list for any assistance program, including a waiver program, provided by the commission or another health and human services agency.

These rules would apply to military members who maintained Texas as their legal state of residence, as well as their spouses or dependent children. They also would apply to the spouse or dependent child of a former military member who was a resident of Texas and who was killed in action or died while in service.

The rules would require the commission or another health and human services agency to offer benefits to people according to their position on the interest or other waiting list that they attained while residing out of state if they returned to live in Texas. In adopting these rules, the executive commissioner would be required to limit the amount of time individuals could maintain their positions on interest or other waiting lists to one year after:

- the member's active duty ended; or
- the member's death, if the member died while in service or was killed in action.

If a member, spouse, or dependent subject to the bill reached the top of an interest or other waiting list but was temporarily out of state due to military service, the commission or agency providing the benefit would maintain the person's position on the list but continue offering benefits to others on the list in accordance with their respective positions.

The executive commissioner of HHSC would be required to adopt the rules necessary to implement the bill by December 1, 2015. A state agency that determined that a federal waiver or another authorization was necessary to implement the bill would be required to request it and could delay implementation until receiving it.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take

effect September 1, 2015.

SUPPORTERS SAY:

CSSB 169 would protect service people and members of their families from being removed from state waiting lists for health benefits and programs simply because they left the state for temporary military service. Under Department of Aging and Disability Services policies and procedures for managing interest lists for home-and-community based services and home living services, an individual who no longer has a Texas address is removed from an interest list unless the individual temporarily moved out of Texas for military service and provided non-Texas contact information to the authority responsible for maintaining the list. This bill would hold a spot on the list for these military members and their families even without a Texas address and would remove the burden on them to submit updated contact information if military duty took them away from the state temporarily.

CSSB 169 would not grant any additional services or preferential treatment to military members and their families on the interest lists; it simply would hold their place during the time they were called away. The bill would not deny services to a non-military person on the list as a result of holding the place of an absent military member, nor would it allow a service person or family member to move ahead on a list in any fashion.

The bill could be implemented with existing resources and staff. Maintaining the place of a military member or family member on a service list would require only a small automation change in the Health and Human Services Commission system for waiting lists. Although some internal commission policies already address protecting health services for serving military members, this bill would ensure that every family received notice of that process and would solidify this practice in statute.

OPPONENTS SAY:

No apparent opposition.

NOTES:

The House companion bill, HB 765 by S. King, was considered in a public hearing of the House Committee on Defense and Veterans Affairs on March 11 and left pending.

CSSB 169 differs from the Senate engrossed version in that the House committee substitute would apply to military members or family that had declared Texas as their state of legal residence, rather than their home of record, under military guidelines.

SUBJECT: Allowing monthly reporting for certain sanitary sewer overflows

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 11 ayes — Keffer, Ashby, D. Bonnen, Burns, Frank, Kacal, T. King, Larson, Lucio, Nevárez, Workman

0 nays

SENATE VOTE: On final passage, April 14 — 28-3 (Garcia, Menéndez, Watson)

WITNESSES: *(On House companion bill, HB 2051)*
For — Brian Butscher, City of Corpus Christi; Steve Coonan, Water Environment Association of Texas; Julie Nahrgang, Water Environment Association of Texas, Texas Association of Clean Water Agencies; (*Registered, but did not testify*: Mike Howe, American Water Works Association, Texas Section; Matt Phillips, Brazos River Authority; Tom Tagliabue, City of Corpus Christi; TJ Patterson, City of Fort Worth; Tony Privett, City of Lubbock; Russell Schreiber, City of Wichita Falls; Amy Beard, SouthWest Water Company; Dean Robbins, Texas Water Conservation Association; Amy Stelter, Trinity River Authority of Texas)

Against — Steve Hupp, Bayou Preservation Association; (*Registered, but did not testify*: Kelly Davis and Lauren Ice, Save Our Springs Alliance; Ken Kramer, Sierra Club-Lone Star Chapter; David Weinberg, Texas League of Conservation Voters)

BACKGROUND: Water Code, sec. 26.039 requires a responsible party to notify the Texas Commission on Environmental Quality (TCEQ) as soon as possible, and no later than 24 hours after the occurrence, when an accidental discharge or spill occurs that may cause pollution. The individual's notice to TCEQ must include the location, volume, and content of the discharge or spill.

The individual running or responsible for the facility must notify appropriate local government officials and local media if a spill from a facility owned or operated by a local government could affect a drinking water source.

A sanitary sewer overflow is a type of unauthorized discharge of partially treated or untreated wastewater from a collection system or its components — for example, a manhole, lift station, or cleanout — that occurs before the wastewater reaches a wastewater treatment facility.

DIGEST:

Under SB 912, responsible individuals no longer would have to notify the Texas Commission on Environmental Quality (TCEQ), local government officials, and local media of a sanitary sewer overflow within 24 hours of its occurrence if the sanitary sewer overflow came from a facility owned or operated by a local government and:

- had a volume of 1,000 gallons or less;
- was not associated with another simultaneous accidental discharge or spill;
- had been controlled or removed before it could enter water in the state or adversely affect a source of drinking water;
- would not endanger human health, safety, or the environment; and
- was not subject to other local regulations and reporting requirements.

The individual would be required to calculate the volume of an accidental discharge or spill using a standard method, established by TCEQ rule, to determine whether the discharge or spill was exempt from the notification requirements.

The responsible individual would report to TCEQ a summary of such accidental discharges and spills at least once a month. The monthly summary would have to include the location, volume, and content of each sanitary sewer overflow.

TCEQ would adopt rules to implement the bill by June 1, 2016. Rules would consider the compliance history of the responsible individual and establish procedures for the individual to format and submit the monthly summary of sanitary sewer overflow incidents.

The bill would take effect September 1, 2015, and would apply only to an

offense committed on or after the effective date of a rule adopted by TCEQ.

SUPPORTERS SAY:

SB 912 would alleviate the reporting burden on local government-owned utilities and TCEQ without placing the public at any additional risk from sanitary sewer overflow incidents. Under current law, a sanitary sewer overflow must be reported to TCEQ within 24 hours, regardless of its volume or source. For sanitary sewer overflows that originated from a local government-owned facility, the bill appropriately would require immediate reporting only for spills that exceeded 1,000 gallons or that posed a threat to human health or a source of drinking water.

An informal survey of Texas utilities indicates that a large percentage of reported sanitary sewer overflows involve less than 1,000 gallons, including releases from events when city workers perform repairs or routine maintenance within the system. The majority of such overflows do not reach waters of the state and do not cause an environmental impact. The current requirement to report all sanitary sewer overflows within 24 hours creates a reporting burden on public utilities owned by local governments and an information management challenge for TCEQ. It also has the potential to mislead the public into thinking that a serious public health and safety issue exists every time a sanitary sewer overflow is reported.

The bill would allow utilities to better organize reporting data to pinpoint potential impacts to public health and the environment. Creating the threshold of reportable quantities would not prevent any sanitary sewer overflow from being reported, but would make the paperwork and time frame for submitting reports on most relatively low-volume sanitary sewer overflows more reasonable and less burdensome on the utilities and would provide more meaningful information to the public.

The bill would not eliminate the clean-up requirements for any sanitary sewer overflow. It merely would reduce the reporting requirements for many incidents under a certain threshold that did not affect water quality, human health and safety, or the environment.

OPPONENTS

Current protocol enables TCEQ to pinpoint issues of concern and address

SAY:

them before they become major problems. Under SB 912, a local government-owned facility having problems with sanitary sewer overflows that were relatively low volume but occurred on an ongoing basis could escape the attention of TCEQ for up to a month. During that time, a bigger problem could develop. This could allow a facility to cover up a problem that should be brought to TCEQ's immediate attention and could interfere with TCEQ's ability to ensure that the discharge did not result in any impacts to human health, public safety, or the environment.

The bill also would remove the requirement to immediately report a sanitary sewer overflow below the threshold to local government officials and the local media, which could keep the public in the dark about potential problems at a local government-owned facility.

SB 912 would charge TCEQ with establishing a method for facilities to use in calculating the volume of a spill, but it still would allow the facility responsible for the sanitary sewer overflow to determine whether the overflow had been controlled or removed, entered state water, harmed a source of drinking water, or endangered health, safety, or the environment. A more objective party should be making that determination, especially if the sanitary sewer overflow occurred in the recharge or contributing zone of an underground aquifer.

Concerns that the current notification process involves a short time frame and a costly and cumbersome process could be addressed with changes to the reporting system. An alternative could be an electronic system to facilitate reporting by the facility and review by TCEQ. This also could improve the accuracy of the records kept by the commission.

NOTES:

The House companion bill, HB 2051 by Crownover, was approved by the House on April 23 by a vote of 138-0 and was received by the Senate on April 27.